

SB324 – Clarifying laws covering disposition of fines and settlements (Sen. Joe Balyeat)

Legislative Audit Committee issue – bipartisan co-sponsors last session because there was bi-partisan concern during the audit committee hearing.

Look at the audit report of the AG's office.

- 1) Need definition of excess funds.
- 2) Need time frame.

Previous AG's response: Disagreed, thought he should get to distribute the money rather than have it go back to the General Fund for the Legislature to distribute. AG said it was "settlement", not fines, costs, or fees; and he appointed an advisory council to provide him with the cover necessary to distribute the money, rather than return it to the General Fund where it'd be subject to the legislature's appropriation process.

Problems with AG's interpretation:

- 1) date problem (M. Tropila).
- 2) AG's resolution directly contradicts his rationale. "....fines, costs, or fees"
- 3) Audit report says his own staff thought the money was subject to the reversion requirements of 30-14-143 and 30-14-226.
- 4) I don't believe there is any statutory authority for this advisory council.

In what some have described as an 11th hour move before leaving office, the AG distributed in excess of \$1.5 million in public funds to private organizations of his choosing, I'm distributing the list. The question is not whether these are deserving entities. They may well be. But the question is whether the AG, or any other public official should be able to dish out millions of dollars without authorization by the legislature, and without benefit of the appropriations process.

So in addition to the two needs dictated in the audit report, the AG's response necessitates the 3rd item which this bill addresses --- all this money should be subject to the legislative appropriation process, regardless of whether it's called fines, costs, fees, or settlement.

SB324 addresses all three issues. Last session, Senate Judiciary Committee adopted an amendment which Sen. Laslovich and I put together. The senate judiciary hearing last session was interesting. The AG's office abandoned the arguments used at the Leg. Audit Committee, and instead took an entirely new angle to justify what was done. Their new argument is that it's OK for them to keep and distribute the money rather than have it revert to the general fund because it's not "excess". That paying all this money out to these private organizations is part of their mission, and they wanted to amend the bill significantly with a huge amendment to statutorily justify what they did. That argument doesn't hold any water for several reasons: First, if their argument were true, they wouldn't have needed their huge amendment to conform the statute to what they did. Secondly, even if these disbursements were legitimate, there would still need to be spending authority given in their legislatively approved budget; and there was, of course, no such spending authority given or even requested. So Senate Judiciary rejected the AG's amendment outright last session, and passed the bill out of committee 10-2; and it passed the Senate on a strong bipartisan vote, only to tied up in the House dogfight last session.

With Sen. Laslovich's concurrence, I then offered an amendment to HB2 on the Senate floor to take the \$2 million and use it to fund local community mental health centers... which I believe is why you see the sudden drop in disbursements from the fund in fiscal 2010. But, if we don't pass this bill, the issue will remain unresolved in statute, and future AG's will continue what I believe is a clearly inappropriate distribution of public funds to private entities. Again, whether or not these private organizations are deserving of money is not the question. Even if they're deserving -- it's the legislature's job to appropriate and distribute funds; that authority is not within the AG's purview.

I'll sit for any proponent &, opponents, and answer your questions, and then tell you why all the opponents are wrong in my closing.